REMARKS

Claims 1-29 are pending. Claims 1-12 and 25-29 have been withdrawn from consideration by the Examiner as being drawn to non-elected inventions. Claims 13 and 15 have been amended. Support for the amendments may be found in the Specification as filed at least on page 29, lines 1-12 and FIGS. 11A-11D. Claims 30-40 have been added. No new matter has been added. The rejections of the claims are respectfully traversed in light of the amendments and following remarks, and reconsideration is requested.

Drawings

The drawings are objected to under 37 C.F.R. 1.83(a). In particular the Examiner states that "a control element" defined in claim 16 must be shown or the feature(s) canceled from the claim(s).

Applicants submit that a control element includes "a simple switch or another control mechanism . . . coupled to vacuum apparatus 1122 to release, apply, or control the vacuum strength within hair graft chamber 1104" (Specification, page 32, lines 12-15) and is thus an inherent part of vacuum apparatus 1122 in FIGS. 11A-11D. Furthermore, another type of control element is described as "a simple cover over an aperture along a line connecting vacuum apparatus 1122 to port 1111" (Specification, page 32, lines 3-6), which is similar to that shown by control elements 426 and 526 in FIGS. 4A-4D and 5A-5D, respectively. Accordingly, Applicants submit that there is sufficient support in the Application as filed to claim "a control element" in Claim 16.

Rejections Under 35 U.S.C. § 112

Claims 15-16 and 23-24 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

In particular the Examiner states that in Claims 15-16, the disclosure corresponding to FIGS. 11A-11D does not describe the device further comprising means for communicating that includes a control element as recited. The Specification as filed recites the following:

> A control element may be used to control the application and release of vacuum in hair graft chamber 1104. In one example, with no intent to limit the invention thereby, the control element is a simple cover over an aperture along a line connecting vacuum apparatus 1122 to port 1111. Vacuum is present when the control element is engaged (e.g., when the cover is over the aperture) and no present when the control element is disengaged (e.g., when the cover is not over the aperture. In other embodiments, engaging the control element may release vacuum while disengaging the control element may apply vacuum. In another embodiment, a simple switch or another control mechanism is coupled to vacuum apparatus 1122 to release, apply, or control the vacuum strength within hair graft chamber 1104. (Specification, page 32, lines 1-15).

Similar means for communicating that includes a control element are described in the Specification as filed on page 21, lines 18-32 and page 23, lines 15-29 with respect to FIGS. 4A-4D and 5A-5D, respectively.

The Examiner further states that in Claims 23-24, the disclosure corresponding to FIGS. 11A-11D does not describe a projection connected to the hair graft chamber and a projection connected to the end of the rod. The Specification as filed recites the following:

> In another embodiment, the hair graft chamber includes a finger projection which extends beyond the distal end of the hair graft chamber along the central axis of the housing. The finger projection extends approximately the length of a hair graft. When used in this embodiment, the finger projection is placed into the wound along the axis of the woumd to help direct the alignment of the apparatus when implanting the hair graft. Advantageously, the finger projection not only guides a hair graft into the wound, but it also may serve, ever so slightly, to open the wound prior to implanting the hair graft.
>
> In a further embodiment, the rod within the piston chamber may include a finger projection extending from a free end of the rod that comes in contact with the hair graft o be implanted. Such a finger projection is disclosed in U.S. Patent No. 5,817,120, issued to William Rassman, and is incorporated by reference herein for all purposes. (Specification, page 28, lines 7-25).

Applicants submit the above-referenced written description in the Specification as filed (including disclosure incorporated by reference) would enable one skilled in the art to make and/or use the invention as claimed in Claims 15-16 and 23-24.

Rejections Under 35 U.S.C. § 102(b)

Claims 13-14 and 17-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Boudjema (U.S. Patent No. 6,059,807).

In rejecting the claims, the Examiner states that "Boudjema discloses in figures 1-4, an apparatus . . . including: a housing (2) that includes an actuator chamber (18) and a hair graft chamber (24), a vacuum source (9) coupled to the housing to provide suction thereby drawing a hair graft (23) into the housing."

However, Boudjema discloses that "the graft (23) is fixed on the end of the needle (13), in the suction mode" (Boudjema, col.4, lines 28-30) and that the "diameter of the orifice (24) is smaller than the diameter of the graft (23) so as to prevent the latter from being sucked up into the needle (13)" (Boudjema, col.4, lines 35-37) (emphasis added). Once the graft is "fixed at its base by suction to the end of the needle (13)," the graft "is presented to its receiving site (32) made previously in the scalp (33)" (Boudjema, col.5, lines 4-6; FIG. 8). Thus, Boudjema simply discloses that a graft is fixed on the end of needle (13) and then placed into an insertion site of the scalp. There is no disclosure or suggestion that the graft is drawn into or housed within sheath (12) after being fixed on the end of needle (13). Instead, Boudjema teaches away from such housing of the graft since Boudjema discloses fixing of the graft at its base by suction to the end of the needle (13). Accordingly, Boudjema does not disclose or suggest a hair graft chamber (24), (12), or (13) into which a hair graft is drawn or housed.

In contrast, amended Claim 13 recites "a housing including an actuator chamber and a hair graft chamber with an open distal end, the hair graft chamber for housing a loaded hair graft" and "a vacuum source operably coupled to the housing to provide suction at the open distal end for drawing a hair graft into the hair graft chamber through the open distal end." Thus, because Boudjema does not disclose or suggest all the limitations of Claim 13, Claim 13 is patentable over Boudjema.

Claims 14-24 are dependent upon Claim 1 and contain additional limitations that further distinguish them from Boudjema. Therefore, Claims 14-24 are allowable over Boudjema for at least the same reasons provided above with respect to Claim 1.

NEW CLAIMS

Claims 30-40 have been added. Claim 30 recites "a housing including a hair graft chamber with an open distal end, the hair graft chamber for housing a loaded hair graft" and "a vacuum source operably coupled to the housing to provide suction at the open distal end for drawing a hair graft into the hair graft chamber." Thus, Claim 30 is patentable over Boudjema for similar reasons provided above with respect to Claim 13.

Claims 31-40 are dependent upon Claim 30 and contain additional limitations that further distinguish them from Boudjema. Therefore, Claims 31-40 are allowable over Boudjema for at least the same reasons provided above with respect to Claim 30.

CONCLUSION

For the above reasons, Applicants believe pending Claims 13-24 and 30-40 are now in condition for allowance and allowance of the Application is hereby solicited. If the Examiner has any questions or concerns, the Examiner is hereby requested to telephone Applicants' Attorney at (949) 752-7040.

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents at fax no. (571-273-8300 on the date stated below.

Tina Kavanaugh

October 12, 2005

Respectfully submitted,

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